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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,414	01/29/2004	Edward O. Clapper	EC007	6971

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EXAMINER

GUADALUPE, YARITZA

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/768,414	CLAPPER, EDWARD O.	
	Examiner	Art Unit	
	Yaritza Guadalupe McCall	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to Amendment filed February 4, 2005

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 4, 7 and 9 - 10 are rejected under 35 U.S.C. 102 (b) as being anticipated by Anderson (US 3,255,531).

In regards claim 1, Anderson discloses an apparatus comprising a housing (40) having a distal edge (49b) and a proximal edge opposite said distal edge and a longitudinal exterior dimension (W) from the distal edge to the proximal edge (See Figure 1); and a tape (30) retractably coilable within the housing (See Figure 3) and extending from the distal edge of the housing through an outlet slot (48b), wherein the tape includes a distal end (defined by the end of the tip 37), a first set of distance marks (32, representing a scale starting on zero and showing 1” as the first scale reading for outside measuring) functionally identifying positions relative to the distal end, and a set of inside measure distance indicators (36) each for indicating a distance from the distal end of the tape to a corresponding distance mark plus the longitudinal exterior

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dimension of the housing, whereby the apparatus may be employed to perform an inside measurement whose value is indicated by the tape.

With regards to claim 2, Anderson also discloses the tape further including a set of outside measure distance indicators (32) each for indicating a distance from the distal end of the tape to a corresponding distance mark; whereby the apparatus may be employed to perform an outside measurement whose value is indicated by the tape (See Column 3, lines 34 - 39).

Regarding claim 3, Anderson teaches the first set of distance marks including major marks and minor marks (as shown in Figure 1), and the longitudinal exterior dimension of the housing being a whole multiple of a distance between adjacent major marks, since the length of the housing represents 2 inches and the tape markings correspond to either full inches starting from zero or full inches starting from 2 inches, which takes into account the length of the housing.

In regards claim 4, Anderson discloses an end piece (37) coupled to the tape.

With regards to claim 7, Anderson teaches a set of outside distance indicators (32, representing a scale starting on zero and showing 1" as the first scale reading) each for indicating a distance from the perpendicular portion of the end piece to a corresponding outside distance indicator.

With respect to claims 9 and 10, Anderson discloses an improved tape measure including a housing (40) having a longitudinal dimension (W) from a distal edge (49b) to a proximal edge, and a retractable tape (30) having a distal end (defined by the end of the tip 37) and bearing distance marks and distance indicators (See scale indicia in Figures 1 and 2), wherein the improvement comprises the distance indicators providing measurements from the distal end of the tape to the proximal edge of the housing; whereby inside measurements (36) may be directly made with the improved tape measure without a user having add in the distance of the longitudinal dimension (See Column 4, lines 29 – 32); and wherein the improvement further comprises separate distance marks (32) and distance indicators for inside measurement and for outside measurement.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Anderson (US 3,255,531) in view of Usami (US 6,032,379).

Anderson discloses a tape measure as stated in paragraph 2 above.

Anderson does not disclose the end piece having a predetermined distance of longitudinal slop whereby said end piece can be used in making inside and outside measurements stated in claim 5.

With respect to claim 5 : Usami discloses a tape measure device having a measuring tape (1) having an end piece (2) coupled to the tape by means of rivets (3) provided in a pair of fastening holes (2c, 2d) having an elliptical shape to allow said end portion to move left and right, and wherein this travel distance is equal to the thickness of the end piece so as to compensate for this thickness and assure an accurate zero setting of the scale when measuring inside or outside dimensions of an object (See Column 3, lines 18 – 38). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Anderson by replacing its end portion and connecting means with an end portion and connecting means as taught by Usami in order to increase the accuracy of the measurements by assuring an accurate zero setting of the scale (See Column 3, lines 36 – 37) and allowing compensation for design parameters of the tool that may add critical inaccuracies when measuring small dimensions.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 3,255,531) in view of Kuze et al. (US 4,965,944).

Anderson discloses a tape measure as stated in paragraph 2 above.

Anderson does not disclose the longitudinal dimension of the housing being not an integer multiple of a distance between adjacent major marks as stated in claim 8.

With respect to the longitudinal dimension of the housing as stated in claim 8 : Anderson teaches a housing having a dimension of 2 inches, and having a measuring tape including a first and a second set of distance marks including major marks and minor marks (See Figures 1 and 2), wherein the longitudinal dimension of the housing is being reflected in said second set of distance markings (36) as a whole multiple of said housing dimension (See Column 3, lines 69 - 72), since the second marks begins at 2 inches. Kuze et al. discloses a tape measure housing having a dimension of 3 ½ inches, so that the longitudinal dimension of the housing is not an integer multiple of a distance between adjacent major marks, but a fractional value. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the housing disclosed by Anderson to have a fractional dimension that is not a whole integer, i.e., 3 ½ inches as taught by Kuze et al., in order to increase the versatility of the tool by providing a bigger housing which allows for the use of a longer tape measure.

With respect to the second set of distance marks in the measuring tape : Anderson and Kuze et al. disclose a housing having a longitudinal dimension that is not an integer of multiple of a distance between adjacent major marks, and a second set of distance marks indicating a distance from the distal end of the tape to a corresponding distance mark plus the longitudinal exterior dimension of the housing, but this distance marks are shown for a housing having a longitudinal dimension of 3 inches. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify said second set of distance marks of Anderson so as to reflect the correspondent length adjustment of the housing disclosed by Kuze et al. in order to provide a quick measuring conversion scale that helps the user to make direct reading without the need of adding or calculating additional parameters and since Anderson already teaches the benefits of providing the alternate scales provided side by side and compensating for the dimension of the housing.

6. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 3,255,531) in view of Drechsler (US 4,574,486).

Anderson discloses a tape measure as stated in paragraph 2 above.

Anderson et al. does not disclose the inside measurement distance marks being offset along the tape from the outside measurement distance marks by a distance corresponding to a thickness of the perpendicular portion of the end piece as stated in claims 6 and 11.

With respect to claims 6 and 11 : Drechsler discloses a device having a tape (26) having a first and second set of distance measurement marks (30, 30A) including sets of lines or graduations (32) along the side margins of said tape, one of said distance measurement marks (30A) being offset from the outer distal end of the tape or end portion (28) a predetermined distance (Z) which compensates for design casing parameters, i.e., distance between the tape outlet (22) and the pointer provided in the window (18) and minus the length of the bottom wall, all incurring in critical errors if not taken into account while measuring a surface or an object (Column 3, lines 47 – 54 of Drechsler). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the tape disclosed by Anderson by replacing the inside measurement distance marks to be offset from the outside measurement distance marks as taught by Drechsler in order to increase the accuracy of the measurements by allowing compensation for design parameters of the tool that may add critical inaccuracies when measuring a surface or an object.

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7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 3,255,531) in view of Chilton (US 6,684,522).

Anderson discloses a tape measure as stated in paragraph 2 above.

Anderson does not disclose the outside distance indicators and the inside distance indicators being enabled to share the same set of distance marks as stated in claim 12.

With respect to claim 12 : Chilton discloses a measuring tape (24) in an embodiment shown in Figure 3, comprising a conventional tape measure markings provided with distance graduations, said measuring tape being enabled to share the same set of distance marks as shown in Figure 3, with a secondary set of marking indicia (132) in the shape of diamonds for indicating studs separation distances or rafters separation along the length of the measuring tape and all provided and sharing the same distance marks (See Figure 3). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the inside / outside scale indicia disposed on two separate scale markings disclosed by Anderson with a scale indicia sharing the same distance markings as taught by Chilton in order to simplify the reading of the tape by reducing the number of graduations which may cause confusions to the user and in order to reduce manufacturing costs.

Response to Arguments

8. Applicant's arguments with respect to claims 1 - 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yaritza Guadalupe-McCall
Patent Examiner
Art Unit 2859
April 20, 2005



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